

October 2, 2019

VIA EMAIL

MALCOLM HEINS  
CHAIR OF LEGAL AID ONTARIO CLINIC COMMITTEE  
LEGAL AID ONTARIO  
201-20 DUNDAS STREET WEST  
TORONTO, ON  
M5G 2C2

Dear Mr. Heins:

RE: COMMON ISSUES

Parkdale Community Legal Services (PCLS) takes this opportunity to provide brief submissions on the common issues as identified by the Clinic Committee.

**1. Whether Clinics were given sufficient notice and an adequate opportunity to respond to the proposed cost savings measures.**

Firstly, PCLS acknowledges and appreciates that Legal Aid Ontario (LAO) learned about its funding reduction on April 11, 2019. Nevertheless, it was more than a month later, i.e. May 14, 2019, before LAO engaged in consultation with members of the clinic system. The four one-hour virtual consultations, held over three days, were rushed, did not give meaningful opportunity for the participants to provide feedback, and lacked in details.

Secondly, despite the fact that LAO planned to cut PCLS' funding drastically more than any other legal clinic in Ontario, LAO did not consult with PCLS about its budget. As LAO knew or ought to have known that a 45% budget reduction, portion of which was retroactive, would have severe adverse effect on client services and personnel, LAO had a duty to consult with PCLS specifically about its proposed plan.

Lastly, LAO informed the participants at one of the virtual consultations that "Clinics should know about its budget by end of May".<sup>1</sup> It is unclear as to why LAO waited until June 12, 2019 to communicate its plan to PCLS. However, PCLS notes that prior to LAO notifying PCLS of the budget plan, LAO communicated the plan to the media under press embargo. By the time PCLS finally learned about its budget cuts, the media had already published, or was about to publish, LAO's rationale for cutting PCLS' budget. Meaning, LAO prioritized preparing and communicating its "talking points" and having a head start in framing the news, over providing PCLS with meaningful opportunity to respond to the proposed cost savings measures.

---

<sup>1</sup> Appendix 17 – Summary of Clinic Consultations

- 2. Whether the Committee has jurisdiction to reconsider (1) the LAO Board's policy decisions approving the total amount of clinic savings required, and (2) the LAO Board's determination as to the principles to be applied when calculating clinic reductions.**

Sections 36(1) and (2) of the *Legal Aid Services Act*, 1998, S.O. 1998, c.26 states:

**Reconsideration of funding decision**

36 (1) A clinic may ask the clinic committee to reconsider the decision of the designated person or of the clinic committee with respect to its application for funding.

**Same**

(2) Upon receipt of a request, the clinic committee shall reconsider the decision and may confirm, reverse or vary the decision.

*Legal Aid Services Act*, 1998, S.O. 1998, c.26, s 36(1) and (2).

The above sections provide the Clinic Committee with broad powers to confirm, reverse, or vary the funding decision. Ultimately, however, PCLS' request for reconsideration is with only respect to LAO's decision to cut PCLS' funding by approximately 45%. It is not necessarily a request for the Clinic Committee to reconsider the LAO Board's policy decisions. It is, however, a request that the policy decisions are not applied in a manner that is arbitrary, unfair, or logically inconsistent.

- 3. If the Committee has jurisdiction to reconsider the items set out in Issue #2, whether the priorities identified by the LAO Boards were appropriate.**

PCLS will not comment on whether it was appropriate for LAO to prioritize certain communities, e.g. small, rural, and northern clinics. Indeed, PCLS strongly believes that small, rural, and northern clinics must be funded adequately. PCLS will, however, comment on the following:

- While LAO may be within its right to set priorities, whatever decisions it makes cannot be arbitrary, unfair, or logically inconsistent. As stated in PCLS' request for reconsideration, there were 28 clinics outside of Toronto which received more funding per low income individual than the average Toronto clinic. One clinic, for example, received 11 times more funding than PCLS receives per low income individual. Yet, these 28 clinics received approximately 1.3% cut to their budget, while PCLS received approximately 45% cut. Even if LAO was within its right to distribute the cuts unevenly, it still has not provided a logical formula or explanation as to why PCLS – which in one comparison received 11 times less funding per the low income measure – received a cut that is 35 times more.
- To state that one of LAO's principles was to minimize impact on small, rural, and northern clinics is to provide an inaccurate picture as to how LAO truly applied the budget cuts. It is more accurate to state that LAO's principle was to minimize impact on all clinics except for Toronto clinics. Urban clinics outside of Toronto that are neither small, rural, nor Northern were also spared from brunt cuts, e.g.

Ottawa, Hamilton, London, Mississauga, and Windsor. On the other hand, small clinics within Toronto, e.g. South Etobicoke, were not spared.

**4. Whether available financial resources provided by the Government of Ontario constitutes an appropriate consideration in respect of Clinic funding decisions.**

Yes.

**5. If the Committee has jurisdiction to reconsider the items set out in Issue #2, whether the metrics used by LAO Board to compare Clinics and allocate funding among them were appropriate.**

It is difficult for PCLS to comment on the question because it is still uncertain as to what metrics were used by LAO or how they were used. PCLS' request for reconsideration details how the LAO's use of Low Income Measure was neither appropriate nor consistently or logically applied.<sup>2</sup> In its request for reconsideration, PCLS also noted that the LAO's funding decision explicitly compared PCLS to Legal Assistance Windsor. Yet, LAO's most recent submissions deny the comparison being a factor in its decision.<sup>3</sup> Currently, PCLS flags that LAO's most recent submissions also deny that it considered PCLS' community organizing and law reform work in its funding decision. Yet, at its closed meeting with the media prior to the funding decision being released on June 12, 2019, LAO stated that "Parkdale reported 33 per cent staff work is on community organizing and law reform." The media also quotes LAO as stating the following:

[W]e can only tell [PCLS] what we're funding them for and give them guidance on what we expect the money to go towards and we are going to tell them that we expect them to prioritize individual client services... And if they have extra time, pro bono time, volunteer time, anything else they want to do around law reform, community organizing, that's absolutely fine. Just the funding dollars within our envelope have to go to direct client services.

Gallant, Jacques. "Sweeping cuts to legal aid disproportionately hit Toronto clinics, Parkdale site to lose \$1 million", *Toronto Star* (2019).

In summary, PCLS cannot fully comment on the metrics used by LAO because the metrics appear to be shifting.

**6. Whether the Committee has jurisdiction to allocate additional funding to Clinics.**

We encourage LAO to allocate additional funding to Clinics. However, PCLS' request for reconsideration is specifically about funding to PCLS.

---

<sup>2</sup> Appendix 03A – 2019 07 11 – PCLS Request for Reconsideration

<sup>3</sup> Appendix 03 – Parkdale Community Legal Services (PCLS) – LAO Response

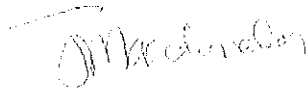
**Conclusion**

We respectfully ask the Clinic Committee to reconsider LAO's decision to reduce PCLS' funding by 45%. If the Clinic Committee has any questions with respect to our submission, we will be happy to meet with its Committee members before a final decision is made regarding our reconsideration request.

Yours truly,

**PARKDALE COMMUNITY LEGAL SERVICES**


Per:



**Johanna MacDonald**  
Clinic Director



**Elizabeth Shilton**  
Board Co-Chair



**Kalsang Dolma**  
Board Co-Chair

Cc: Roderick Strain  
Aileen Page  
Brian Gover

JM/ES/KD/jn